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**FISCAL IMPACT STATEMENT**

**LS 6769**

**BILL NUMBER:** HB 1470

**NOTE PREPARED:** Jan 28, 2015

**BILL AMENDED:**

**SUBJECT:** Income Apportionment for Income Tax Purposes.

**FIRST AUTHOR:** Rep. Ober

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State

**Summary of Legislation:** The bill eliminates the throwback rule that is used in determining income subject to taxation by Indiana.

**Effective Date:** January 1, 2016.

**Explanation of State Expenditures:** *Department of State Revenue (DOR):* This bill will result in an increase in administrative costs for the DOR by requiring the DOR to revise corporate adjusted gross income (AGI) tax forms, instructions, and computer programs to incorporate the changes proposed in the bill. It is estimated that DOR's current level of resources should be sufficient to implement the changes.

**Explanation of State Revenues:** *Repeal of Throwback rule:* The bill changes the apportionment method of corporate business income and would reduce the taxable business income for corporate taxpayers that: (1) ship property from Indiana to a purchaser located outside Indiana; and (2) are not subject to tax in the jurisdiction where the purchaser is located. Under current law, such sales are assigned to Indiana under what is called the "throwback rule". Since Indiana uses sales as the basis of business income apportionment, the throwback rule increases the taxable business income for some corporate taxpayers.

Data are not available to provide a specific estimate, but the change could lead to a significant reduction in corporate AGI tax revenue.

Econometric research on the impact of the throwback rule on the corporate income tax base has been largely ambiguous. Some of the studies suggest that eliminating the throwback rule could lead to a revenue loss, but that the revenue loss might be offset to the extent that the change leads to an increase in taxable corporate

income due to tax planning and other factors. However, some of the studies suggest that the throwback rule does not impact the corporate tax base on its own, but it may impact the tax base when combined with other policy factors like the corporate tax rate and combined reporting requirements.

The bill is effective January 1, 2016, and the impact of the bill could begin in FY 2016 if taxpayers adjust quarterly estimated payments. The full year impact from the bill would begin in FY 2017.

**Additional Information:** Indiana law requires a multistate corporation to use sales as an apportionment factor to apportion its income to Indiana. The sales factor is a fraction where the numerator is the taxpayer's total sales in Indiana during the tax year, and the denominator is the taxpayer's total sales everywhere during the tax year.

A taxpayer's sales are assigned to Indiana's sales factor numerator if: (1) the property sold is delivered or shipped to Indiana; (2) the property is sold to the U.S. government and the property is shipped from Indiana; or (3) the property sold is delivered or shipped to a destination outside of Indiana and the seller is not subject to tax in the destination state or country. The sales described in (3) are assigned to Indiana under what is called the "throwback rule".

Currently 6 states do not impose any corporate income tax. More than half of the states that impose corporate income tax use the throwback rule in their apportionment formula.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of State Revenue.

**Local Agencies Affected:**

**Information Sources:** Effects of State tax Structure on Business Organizations' *LeAnn Luna and Matthew N. Murray*, <http://cber.utk.edu/confpapers/LunaMurray.pdf> ;  
Combined Reporting with the Corporate Income Tax: *William Fox and LeAnn Luna*, <http://www.ncsl.org/documents/standcomm/sccomfc/combinedreportingfinaldraft.pdf> ;  
On the Extent, Growth, and Efficiency Consequences of State Business Tax Planning, Donald Bruce, John Denkins, and William Fox, [http://eml.berkeley.edu/~burch/incometax05/bruce\\_deskins\\_fox.pdf](http://eml.berkeley.edu/~burch/incometax05/bruce_deskins_fox.pdf)  
All States Corporate Income Tax Rates: [http://www.taxadmin.org/Fta/rate/corp\\_inc.pdf](http://www.taxadmin.org/Fta/rate/corp_inc.pdf)

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